IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

Crl.MC.No. 377 of 2007()

PETITIONER:

V. SREEDHARAN NAIR,
MANAYATHU CHERAYIL HOUSE,
CMC-21, CHERTHALA.

BY ADV. SMT.PREETHA ANIL RAVEENDRAN

RESPONDENTS:

---

1. A.N. SAMANDA BHADRAN,
BHAKTHIVILASAM HOUSE,
KARIKKADU P.O.,
CHERTHALA.

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 377 OF 2007

Dated this the 14th day of February, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the N.I. Act. The case was filed as early as in 2003. The case has now reached the stage of evidence.

2. The petitioner has now come to this Court with a prayer that the proceedings initiated against him under Sec.138 of the N.I. Act may be quashed invoking the powers under Sec.482 of the Cr.P.C. What are the reasons? The learned counsel for the petitioner submits that the complainant is the complainant in as many as 15 cases, the list of which is produced as Annexure-B. He has made complaints against various individuals. The list is not exhaustive and there are more cases initiated by the complainant, submits the learned counsel for the petitioner. According to the petitioner, the complainant is, thus, a person who is misusing the provisions of Sec.138 of the N.I. Act. In these circumstances, it is prayed that the proceedings may be

quashed. The learned counsel further submits that, as a matter of fact, the complainant – a moneylender, had advanced only an amount of Rs.10,000/- to the petitioner, he had insisted on the petitioner handing over two blank signed cheques. Interest is being paid regularly. But the complainant, misusing one of the two blank cheques, has initiated proceedings against the petitioner. He further threatens the petitioner that if the petitioner chooses to contest this proceeding, he shall make use of the other blank cheque also.

3. I have heard the learned counsel for the petitioner in detail. No valid reason has been shown to show that the powers under Sec.482 of the Cr.P.C. can be invoked to quash the proceedings. The circumstances urged by the petitioner are circumstances which the petitioner must urge in defence in the prosecution initiated against him. They do not constitute any valid reason to quash the proceedings.

4. In conclusion, the learned counsel for the petitioner submits that a warrant of arrest has been issued by the learned Magistrate against the petitioner. The petitioner must appear before the learned Magistrate and apprise the learned Magistrate of the circumstances under which he could not

earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Orders must be passed on such application on the date of surrender itself.

5. There is a further grievance raised that an application to recall the complainant for cross-examination has been dismissed by the learned Magistrate. The petitioner will certainly be entitled to seek relief in accordance with law against such dismissal at the appropriate stage.

6. With the above observations, this Crl.M.C. is dismissed.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge